

RCS# 22
1/19/10
2:02 PM

Atlanta City Council

REGULAR SESSION

10-R-0089 CLAIM OD EDWARD MILLS FOR DAMAGES

FILE

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
B Winslow	Y Adrean	Y Sheperd	NV Mitchell

10-R-0089

10- R -0089

Entered - 06/01/09 - sb
CL09L0382 - DIANNE C. MITCHELL

CLAIM OF: **EDWARD J. MILLS**
2400 Bohler Road, NW
Atlanta, Georgia 30327

For damages alleged to have been sustained as a result of a sewer
main break on December 9, 2008 at 2400 Bohler Road, NW.

BY PUBLIC SAFETY AND
LEGAL ADMINISTRATION COMMITTEE:

BE IT RESOLVED by the Council of the City of Atlanta that the
action of the Department of Law be approved in authorizing
payment to **EDWARD J. MILLS** the sum of **\$155,000.00** in full
settlement and satisfaction of all claims, past, present and future,
of every kind and character for damages alleged to have been
sustained as a result of a sewer main break on December 9, 2008
at 2400 Bohler Road, NW as is more particularly set forth in the
within claim; said sum taken from and charged to account
5051.170201.5750002.4310000.

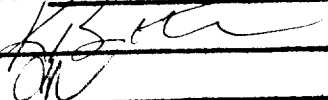
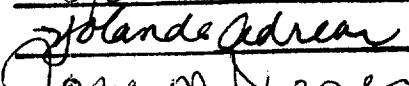



APPROVED: **ROGER BHANDARI**
ACTING CITY ATTORNEY

BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

FILE

Public Safety
LEGAL ADMINISTRATION COMMITTEE

DATE: 1/12/10
CHAIR: _____

FILED
JAN 19 2010
Ruth Duglin Johnson
MUNICIPAL CLERK

JAN 19 2010

Filed

JAN 19 2010

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 09L0382

Date: November 10, 2009

Claimant /Victim EDWARD J. MILLS

BY:(Atty)(Ins. Co.)

Address: 2400 Bohler Road, NW, Atlanta, Georgia 30327

Subrogation: Claim for Property damage \$ 155,000.00 Bodily Injury \$

Date of Notice: 05/19/09 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 12/09/08 Place: 2400 Bohler Road, NW

Department Watershed Mgt. Bureau: Wastewater Treatment and Collections

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant's property was damaged when a sewer trunk line running perpendicular to his property ruptured. The investigation determined that the City was on notice of problems with this trunk line and failed make appropriate repairs.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

Pictures X Diagrams Reports: Police Dept Report X Other

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial

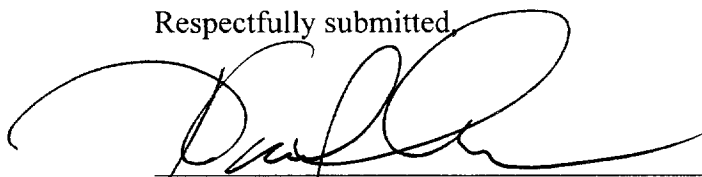
Improper Notice More than Six Months Other Damages reasonable X

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent X Joint Claim Abandoned

Respectfully submitted,



INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 155,000.00 Adverse Account charged: General Fund Water & Sewer X Aviation

Claims Manager: Concur/date 11/12/09

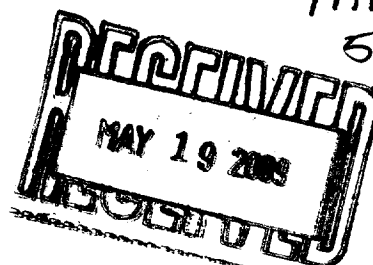
Committee Action: Council Action

10- R -0089

RE: CLAIM FOR DAMAGES
Today's Date: May 14, 2009

Reginald Wells
CITY OF ATLANTA
Department of Watershed Management
Bureau of Wastewater Treatment & Collection
360 Englewood Avenue, S.E.
Atlanta, Georgia 30315

ENTERED - 6-1-09 - SB
09L0382 - D. MITCHELL



Dear Mr. Wells:

This is to notify the City of Atlanta that I have suffered damages in the amount of \$ 155,000.00 property and Mills Family for which I contend the City is liable. (Refer To Attached) (Refer To Communications with Reginald Wells)

1. Date of incident: 12/9/08 2. Time of incident: 6:00 pm 3. Waste Management called immediately
4. Location of incident (including street address): 2400 Bohler Rd. Atlanta, Georgia 30327
5. Name of your insurance company: Policy No.
6. State what and how incident occurred: At approximately 6:00 pm on 12/9/08, a 92 inch major sewer trunk line broke for the second time within the last 4 years, resulting in a major biohazardous contamination of approximately 6 acres. The city's efforts to repair the line and remediate the damage to the property resulted in lack of utilization by the owners as well as significant ill effects to the family. The repair to the sewer line extended beyond the property owned by the Mills family. Access to the trunk line involving other residents was obtained through the Mills' property so as to minimize disturbing and compromising adjacent property. The city was made aware of cracks in the trunk line as well as structural engineering concerns and did not act to properly repair the trunk line until the catastrophic event. The remediation process by the city has progresses in an appropriate and efficient manner , especially as compared to the previous remediation. (Refer to mediation records from previous toxic spill on property)As of this date the city has not finished repairs to the property.
7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle.
9. Witness: Mills family members, city employees including supervisory staff. (Refer To Reginald Wells)
10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).
11. Claims must be received within 6 months from the date of the event.

I HEREBY SWEAR OR AFFIRM THAT THE
ABOVE INFORMATION IS TRUE AND
CORRECT.

Edward J. Mills
(Print Claimant's Name)
2400 Bohler Rd.
(Address)
Atlanta, Georgia 30327
(City, State and Zip Code)

Signature of Claimant

404-252-2125 404-352-3623
(Work Number) (Home Number)

Carol M Mobley

Carol M Mobley
My Commission Expires February 18, 2010

FINANCE/EXECUTIVE COMMITTEE

YOLANDA ADREAN, CHAIR

RESOLUTIONS

- 10-R-0136 (1) A Resolution by Councilmembers Michael Julian Bond, H. Lamar Willis, Kwanza Hall, Ivory Lee Young, Jr. and Aaron Watson calling for the creation of a Public Safety Improvement Fund; requesting the Mayor or his designee to direct City Staff to add the creation of such a Fund to the City's 2010 Georgia General Assembly Legislative Package; and for other purposes.

FAVORABLE (4 YEAS) (1 NAY) (1 ABSTENTION)

- 10-R-0147 (2) A Resolution by Finance/Executive Committee authorizing
*** the Mayor to enter into Renewal Agreement No. 1 for Sole Source Agreement FC-4737, Operations, Maintenance and Training for the Hemphill Steam Pumping Station with DPS, Infrastructure Monitoring Systems, Inc., on behalf of the Department of Watershed Management/Bureau of Drinking Water, in an amount not to exceed \$2,000,000.00; all contracted work shall be charged to and paid from the listed FDOA Numbers and amounts; and for other purposes.

FAVORABLE ON CONDITION (1 ABSTENTION)

PAPERS HELD IN COMMITTEE

- 10-C-0054 (1) A Communication by City Auditor Leslie Ward to the Atlanta City Council submitting a Performance Audit Report for Indirect Cost Allocation. **(Held 1/13/10 by the Committee for discussion in conjunction with the Comprehensive Annual Financial Report [CAFR].)**
- 10-C-0056 (2) A Communication by former Mayor Shirley Franklin to President Mitchell and the Atlanta City Council submitting the City of Atlanta Retirement Review - Phases II & III Plan Design and Financial Impact Report. **(Held 1/13/10 by the Committee for further discussion and a work session.)**

MEMBERS PRESENT: ADREAN, MARTIN, MOORE, WAN, WATSON & WILLIS